



PRESS RELEASE

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FDIC Board Passes Notice of Proposed Rulemaking on Prohibitions and Restrictions on Proprietary Trading and Certain Interests In, and Relationships With, Hedge Funds and Private Equity Funds

The Federal Deposit Insurance Corporation requested public comment on a proposed regulation implementing the so-called "Volcker Rule" requirements of section 619 of the Dodd-Frank Wall Street Reform and Consumer Protection Act. That section of the Act generally prohibits two activities of banking entities. First, it prohibits insured depository institutions, bank holding companies, and their subsidiaries or affiliates (banking entities) from engaging in short-term proprietary trading of any security, derivative, and certain other financial instruments for a banking entity's own account, subject to certain exemptions. Second, it prohibits owning, sponsoring, or having certain relationships with, a hedge fund or private equity fund, subject to certain exemptions.

The Act also prohibits banking entities from entering into any transaction or engaging in any activity that would (i) involve or result in a material conflict of interest, (ii) result in a material exposure to high-risk assets or high-risk trading strategies, (iii) pose a threat to the safety and soundness of the banking entity, or (iv) pose a threat to the financial stability of the United States.

The proposal, which will be issued jointly with the Federal Reserve Board, the Office of the Comptroller of the Currency, and the Securities and Exchange Commission, clarifies the scope of the Act's prohibitions and, consistent with statutory authority, provides certain exemptions to these prohibitions. It is anticipated that the Commodity Futures Trading Commission will issue a comparable proposal in the near future.

The proposed rule would require banking entities to establish an internal compliance program that is designed to ensure and monitor compliance with the statute's prohibitions and restrictions, and implementing regulations. The internal compliance



Congress created the Federal Deposit Insurance Corporation in 1933 to restore public confidence in the nation's banking system. It promotes the safety and soundness of these institutions by identifying, monitoring and addressing risks to which they are exposed. The FDIC receives no federal tax dollars — insured financial institutions fund its operations.

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program would be subject to oversight by the banking entity's board of directors and appropriate federal supervisory agency. The proposal also requires banking entities with significant trading operations to report to the appropriate federal supervisory agency certain quantitative measurements designed to assist the federal supervisory agencies and banking entities in identifying prohibited proprietary trading in the context of exempt activities.

Transactions in certain instruments, including obligations of the U.S. government or a U.S. government agency, the government-sponsored enterprises, and state and local governments, are exempt from the statute's prohibitions. Activities exempted include market making, underwriting, and risk-mitigating hedging. The statute also permits banking entities to organize and offer a hedge fund or private equity fund subject to a number of conditions, including permitted de minimis investments in such funds subject to limitations.

The proposed rule includes regulatory commentary intended to assist banking entities in distinguishing permitted market making-related activities from prohibited proprietary trading activities. It also includes a number of elements intended to reduce the burden of the proposal on smaller, less-complex banking entities. For example, the proposal limits the extent to which smaller banking entities are required to report quantitative measurements.

Comments on the proposal will be received through January 13, 2012.

Attachment: www.fdic.gov/news/board/2011Octno6.pdf - PDF (PDF Help)
